

MEMORANDUM OF UNDERSTANDING

BETWEEN AND FOR THE

CITY OF FRESNO

AND THE

CITY OF FRESNO MANAGEMENT EMPLOYEES ASSOCIATION

(Management Confidential - Unit 14)

Fiscal Years
2002 - 2004

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I - PREAMBLE	1
A. Purpose	1
B. Definitions	1
C. Governing Laws	1
ARTICLE II - EMPLOYEE RIGHTS	2
A. General	2
B. Nondiscrimination	2
C. Employee Responsibilities	2
D. Personnel Files	2
ARTICLE III - CITY RIGHTS	4
A. General	4
ARTICLE IV - RECOGNITION	6
A. Association Recognition	6
B. Unit Description	6
C. City Recognition	7
D. Recognition of Mutual Obligation	7
E. Lockout And Strike	7
ARTICLE V - REPRESENTATION AND RESOLUTION OF CONCERNS	8
A. Scope of Representation	8
B. Representation of Employees	8
C. Resolution of Concerns	8
D. Corrective Actions	9
ARTICLE VI - COMMUNICATIONS	10
A. Association Business	10
B. Association Officers and Directors	10
C. Exchange of Information	10
D. Department Representatives	11

TABLE OF CONTENTS (Cont.)

	<u>Page</u>
ARTICLE VII - DEDUCTIONS	12
A. General	12
B. Exception to the Dues Deduction Authorization Card	12
C. Dues Deduction Check	12
ARTICLE VIII - COMPENSATION AND BENEFITS	13
A. General	13
B. Salaries	13
C. Premium Pay	14
D. Life Insurance and Disability Coverage	14
E. Fresno City Employees Health and Welfare Trust	14
F. Leaves	15
1. Annual Leave	15
2. Holiday Leave	17
3. Administrative Leave	18
G. Workers' Compensation	19
H. Court Time	20
I. Work Schedules	20
J. Use of Personal Vehicles	20
ARTICLE IX - HEADINGS, SAVING CLAUSE, AND FULL UNDERSTANDING	22
A. Headings	22
B. Saving Clause	22
C. Full Understanding	22
ARTICLE X - TERMINATION	23
EXHIBIT I -	
Salaries	25
ATTACHMENT I	
- Performance	
Evaluation Form	27

LEGEND

* * *	= deleted old language
[§ deleted]	= section/subsection deleted/moved
[§§ deleted]	= two or more
	sections/subsections deleted/moved
bold type	= new language

ARTICLE I

PREAMBLE

A. PURPOSE

This Memorandum of Understanding (MOU), entered into between the City of Fresno, hereinafter referred to as the City, and the City of Fresno Management Employees Association, Management Confidential Unit, hereinafter referred to * * * as the Association, CFMEA, or as Unit, has as its purpose the establishment of wages, hours, and other terms and conditions of employment, and to promote collaboration in the resolution of issues affecting all parties.

B. DEFINITIONS

Unless the particular provision or the context otherwise requires, and, except to the extent that a particular word or phrase is otherwise specifically defined in this MOU, the definitions and provisions contained in Article 3 of Chapter 1, and Sections 2-1501, 2-1601, 2-1801, and 2-1903 of the Fresno Municipal Code (FMC) shall govern the construction, meaning, and application of words and phrases herein. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is derivative from it, or from which it is a derivative, as the case may be.

C. GOVERNING LAWS

The legal relationship between the City and its employees and the City and the Association is governed by Government Code, Section 3500 et seq., commonly known as the Meyers-Milias-Brown Act or MMBA, and Article 19 of Chapter 2 of the FMC. In the event of conflict between said laws and this MOU, said laws shall govern.

ARTICLE II

EMPLOYEE RIGHTS

A. GENERAL

The rights of employees are set forth in Section 2-1904 of the FMC, and said section presently reads as follows:

"Employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including, but not limited to, wages, hours, and other terms and conditions of employment. Employees shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relationship with the City. No employees shall be interfered with, intimidated, restrained, coerced, or discriminated against by the City or by an employee or an employee organization because of his [or her] exercise of any of these rights. No management employee or confidential employee shall act as a representative of any employee organization which represents employees other than management employees or confidential employees."

B. NONDISCRIMINATION

The provisions of this MOU shall apply to and be exercised by all members of the Association, without regard to age, gender, sexual orientation, marital status, religious creed, race, color, national origin, certain medical conditions and disabilities, being a Vietnam era or qualified special disabled veteran, union, or political affiliation.

C. EMPLOYEE RESPONSIBILITIES

All employees in the Unit acknowledge that the City shall consider the positions and proposals of the Association as the meet and confer positions and proposals of all employees, individually and collectively, in said Unit.

D. PERSONNEL FILES

1. The Human Resources Division, under the direction of the Director of Administrative Services, shall maintain the official personnel file for each employee. Each employee may review, or authorize in writing its review by a designated representative, subject to reasonable rules and regulations, and

receive a copy of all material placed in either his or her official file or departmental file. If an employee disagrees with the content of a document placed in either file, it shall be the right of the employee to submit a response to the Director of Administrative Services to be attached to the document in question and included in the appropriate file. Personnel files are considered confidential and access is limited.

2. Documents, including performance evaluations, retained in the employee's departmental file shall be forwarded to the employee's new department if the employee transfers, promotes, or demotes. The file should be forwarded to Human Resources when the employee leaves City service.
3. Inquiries regarding employment references shall be administered in accordance with existing City policies.

ARTICLE III

CITY RIGHTS

A. GENERAL

1. The rights of the City include those rights enumerated in FMC Section 2-1905, as the same may be amended from time to time. Specifically:

"(a) The exclusive rights to the City include, but are not limited to, the right to

- (1) determine the missions of its constituent departments, divisions, commissions, and boards;
- (2) set standards of service and municipal fees and charges;
- (3) determine the procedures and standards of selection for employment, assignment, transfer, and promotion;
- (4) direct its employees;
- (5) take disciplinary action;
- (6) relieve its employees from duty because of lack of work or other legitimate reasons;
- (7) maintain the efficiency of governmental operations;
- (8) determine the methods, means, and personnel by which government operations are to be conducted;
- (9) determine the content of job classifications;
- (10) take all necessary actions to carry out its mission;
- (11) exercise complete control and discretion over its organization and technology of performing its work."

2. The rights of the City include the determination of staffing levels, including but not limited to, staffing by shift and class.

3. All other rights formerly or presently enjoyed by or vested in the City on the effective date of this MOU and not mentioned in Section 1.(a) above are retained by and reserved to the City.
4. Nothing in this MOU shall be construed as delegating to others the authority conferred by law on the City, or in any way abridging or reducing such authority.
5. This MOU is not intended to restrict consultation in good faith with the Association regarding matters within the right of the City to determine.

ARTICLE IV

RECOGNITION

A. ASSOCIATION RECOGNITION

1. The City acknowledges the Association as the recognized employee organization representing the Management Confidential Unit, and therefore, shall meet and confer in good faith promptly upon request by the Association and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on a successor MOU at least one week prior to the last regular City Council meeting at which the City budget must be adopted for the ensuing fiscal year in order to meet the June 30 deadline specified in the City Charter. In order that the meet and confer process includes adequate time for full consideration of the proposals of both parties and for the resolution of any impasse, the City will entertain proposals from the Association as early as March 1, **2004**.
2. It is expressly agreed and understood by the parties that under Government Code Section 3502.5, an agency shop agreement shall not apply to management, confidential or supervisory employees. As used in this section, "agency shop" means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of such organization for the duration of the agreement, or a period of three years from the effective date of such agreement, whichever comes first. Employees of the City shall have the right to refuse to join or participate in the activities of the Association and shall have the right to represent themselves individually in their employment relationship with the City of Fresno. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by the Association because of the exercise of these rights.

B. UNIT DESCRIPTION

The Association represents one unit consisting of Management Confidential employees holding a permanent position, as defined in FMC Section 2-1601.1(p)(4), in one of the classes listed in Exhibit 2.3 of the Salary Resolution, as such Unit may be modified from time to time in the manner designated in the FMC.

All classes in Exhibit 2.3 of the Salary Resolution, with the exception of the Law Office Supervisor, are assigned to the Executive Pay Range Plan and are part of the Unclassified Service, as defined in the City Charter Section 1000. Members of the Unclassified Service are at-will employees who serve at the will of the appointing authority and are not covered by the City's Civil Service rules. All other classes in these units not included in the Unclassified Service are part of the Classified Service, pursuant to Charter Section 1000.

C. CITY RECOGNITION

The Association recognizes the City Manager of the City of Fresno, or such person as may be designated in writing, as the designated representative of the City, and shall meet and confer in good faith promptly upon request by the City and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on a successor MOU at least one week prior to the last City Council meeting at which the City budget must be adopted for the ensuing fiscal year in order to meet the June 30 deadline specified in the City Charter.

D. RECOGNITION OF MUTUAL OBLIGATION

The Association and the City recognize and acknowledge their mutual obligation and responsibility to effectuate the purposes set forth in, and to adhere to the conditions and clauses set forth in, this MOU.

E. LOCKOUT AND STRIKE

1. In the event the meet and confer process beginning prior to the expiration of this MOU results in an impasse, the City shall not take unilateral action regarding wages, hours, and other terms and conditions of employment prior to completion of any impasse resolution procedures provided in the FMC.
2. No strikes or work stoppage by City employees, as defined in the FMC shall be caused, instigated, encouraged, condoned, participated in, or honored by the Association or its members during the term of this MOU.
3. No lockout of employees shall be instituted by the City during the term of this MOU.

ARTICLE V

REPRESENTATION AND RESOLUTION OF CONCERNS

A. SCOPE OF REPRESENTATION

"Scope of representation" shall be as defined in FMC Section 2-1903(w), as the same may be amended from time to time. Said Section presently reads as follows:

"Scope of representation" means all matters relating to employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment. Employee rights, as set forth in Section 2-1904, and City rights as set forth in Section 2-1905 (a), are excluded from the scope of representation."

B. REPRESENTATION OF EMPLOYEES

1. A member of the Association whose presence is requested by management to discuss or review an action of the employee has the right to be represented by an Officer, Director, or member of the Association if it appears that the discussion or review may result in fine, suspension, demotion or termination. Should an employee request such representation, no further discussion or review may occur until a representative is present, except that an unreasonable delay shall not result from such a request. The presence of a representative of the employee's own choosing who is not an Officer, Director, or member of the Association shall also satisfy the requirements of this section. An employee shall not represent nor be represented by an individual within his or her line of supervision.
2. This Section does not apply to the normal ongoing employment relationship or supervisor/subordinate relationship between the City and its employees, when such matters include, but are not limited to, work direction, scheduling, and non-disciplinary counseling or performance evaluations.

C. RESOLUTION OF CONCERNS

Concerns regarding the interpretation or application of the provisions of this MOU shall be resolved exclusively as outlined in Administrative Order 2-15, Resolution of Concerns of Management and Confidential Employees. The City recognizes the right of employees who are members of the Association to be represented by the

Association in resolving concerns.

D. CORRECTIVE ACTIONS

[\$ deleted]

Employment and separation of employment for employees holding a permanent position in the Unclassified Service, pursuant to FMC Section 2-1659.1 and Fresno City Charter Section 1000, will be consistent with the applicable provisions of the FMC and the Charter. Unclassified employees are not covered by Civil Service rules and are at-will employees who serve at the pleasure of the appointing authority.

ARTICLE VI

COMMUNICATIONS

A. ASSOCIATION BUSINESS

The City agrees to allow Association Officers, subject to the approval of each employee's supervisor and the needs of the City, reasonable leave for the day-to-day conduct of Association business, including representation of employees as provided in Article V. Attendance at Association conferences, workshops, training, etc., will be charged to the employee's accrued leave benefits, to be designated by the employee. Approval of such leave will not be unreasonably withheld.

B. ASSOCIATION OFFICERS AND DIRECTORS

A written list of the Officers of the Association and the Association Directors, with the specific areas they represent, shall be furnished to the City immediately after their designation and the Association shall notify the City promptly in writing of any changes of such Association Officers or Directors.

[§ deleted]

C. EXCHANGE OF INFORMATION

1. The City shall provide to the Association, on a timely basis, a copy of amendments to the Administrative Orders Manual, new and amended Salary Resolutions, new and amended Position Authorization Resolutions, job bulletins, and, on an on-going basis, a list of employees, with membership in the Association noted on the list.
2. Revisions to specifications for classes contained in this Unit will be provided to the Association for review and comment prior to adoption by the Director of Administrative Services.
3. If new job classes are created which the City determines appropriate for inclusion in this Unit, the City shall provide a copy of the job specifications to the Association and reasonable notice and opportunity to meet and confer prior to the action to adopt a salary for the classes. If, after a reasonable period of meeting and conferring, agreement cannot be reached, staff, after notifying the Association, will forward their recommendation to the City Council.

D. DEPARTMENT REPRESENTATIVES

The director of each department will act as a liaison between the City and the Association for that department. The director will be the primary contact for the Association on labor relations issues within the department.

ARTICLE VII

DEDUCTIONS

A. GENERAL

1. Rules governing dues checkoff are set forth in FMC Section 2-1919, as the same may be amended from time to time.
2. The City shall deduct the dues or benefit premiums, or both, upon proper authorization by Association members in the Unit.
3. If a member in the Unit desires the City to deduct dues or benefit premiums from the member's paycheck, a deduction authorization shall be made on a Dues Deduction Authorization card, available in the form specified in FMC Section 2-1919, as the same may be amended from time to time.
4. If a member in the Unit desires to revoke the member's prior Dues Deduction Authorization card, a dues deduction revocation shall be made upon a Dues Deduction Revocation card in the form specified in FMC Section 2-1919, as the same may be amended from time to time. A Dues Deduction Authorization card may be revoked by a member, and the dues or benefit deduction canceled, only during the months of November or December of the last year of this MOU.
5. Dues Deduction Authorization and Revocation cards are available at the Finance Division, Payroll, and Human Resources Division.

B. EXCEPTION TO THE DUES DEDUCTION AUTHORIZATION CARD

The members' earnings must be sufficient after other legal and required deductions are made to cover the amount of the dues deduction authorized. When a member is in unpaid status for an entire pay period, no dues deduction shall be made from future earnings to cover that pay period, nor will the member be allowed to deposit with the City Controller the amount which would have been deducted if the member had been in a paid status during the pay period. Whenever the member's salary is not sufficient to cover other legal and required deductions, no dues deduction or deposit shall be made.

C. DUES DEDUCTION CHECK

The dues deduction check covering all such deductions shall be made in favor of the

City of Fresno Management Employees Association, and shall be transmitted at least monthly.

ARTICLE VIII

COMPENSATION AND BENEFITS

A. GENERAL

All economic benefits provided by Council ordinance or formal Council resolution, and not otherwise clearly and explicitly modified or restricted in this MOU, shall be continued without alteration during the term of this MOU.

B. SALARIES

[§ deleted]

This Unit is comprised of E-Range Compensation Plan classes (as reflected on Exhibit I). Effective July 1, 2001, and each fiscal year thereafter during the MOU term, salary increases for employees occupying such classes shall be granted based upon annual performance evaluations using the following graduated, performance-based merit plan table.

OVERALL PERFORMANCE RATING CATEGORY	ASSOCIATED PERCENTAGE INCREASE	ADDITIONAL ADMINISTRATIVE LEAVE HOURS
Unsatisfactory/Needs Improvement	Zero Percent (0%)	0
Average	Zero Percent (0%)	0
Above Average	Three Percent (3%)	Up to 16
Superior	Four Percent (4%)	24 - 32
Outstanding	Five Percent (5%)	32

Annual performance evaluations shall be conducted prior to an employee's anniversary date in the current position by the Department Director, utilizing the City of Fresno Performance Evaluation Form (Attachment "A"), with the associated percentage increase becoming effective on an employee's anniversary date. An "outstanding" rating must include a justification to the City Manager or designee in the Comments Section of the Performance Evaluation Form.

There shall be an initial implementation period solely for FY02, wherein all annual performance evaluations shall be completed no later than ninety (90) days from the date Council approves this MOU, and all associated percentage increase recommendations and additional administrative leave hours shall be effective July 1, 2001. In subsequent cycles, performance evaluations are to be completed by the anniversary date of each employee.

An employee who has been subjected to any formal disciplinary action in the twelve (12) months preceding their annual performance evaluation will not be eligible for a salary increase regardless of the rating received. The results of an employee's annual performance evaluation rating is final and is not subject to an appeal process.

[§§ deleted]

C. PREMIUM PAY

[§§ deleted]

Certificate/License/Registration Premium Pay - * * * If any of the certificates, licenses and/or registrations detailed in **the** paragraph * * * below are determined by the City to be minimum qualifications in the job classification, premium pay for that particular certificate, license and/or registration shall not be paid.

Permanent employees in the class of Building and Safety Services Manager, who possess a valid registration as an Architect, Civil Engineer, Electrical Engineer, Structural Engineer, or Traffic Engineer issued by the State of California, shall receive an additional five percent (5%) of their base rate of pay per month.

D. LIFE INSURANCE AND DISABILITY COVERAGE

The City shall provide Life Insurance and Long Term Disability Insurance for members of this Unit in the amounts and formulas currently provided.

E. FRESNO CITY EMPLOYEES HEALTH AND WELFARE TRUST

The City and the Association agree that the Fresno City Employees Health and Welfare Trust has the authority to determine the benefits that will be provided during the term of this MOU. The sole responsibility of the City under this clause is to provide a set dollar amount to be contributed to the Trust on behalf of the employees represented by the Association. The City will contribute only the dollar amount adopted by the Fresno City Employees Health and Welfare Trust for employee benefits during

the term of this MOU, but not to exceed \$500 per month per employee. In the event the premium established by the Trust during the term of this MOU is greater than the City's agreed maximum contribution, the employee will be required to contribute the amount necessary to make up the difference through payroll deductions. **In the event the City agrees to contribute an amount higher than the \$500 established herein on behalf of any other recognized bargaining unit whose members participate in the Fresno City Employees Health and Welfare Trust, the City agrees that it will reopen the meet and confer process on this item upon request by the Association solely in fiscal years 2002 and 2003. This meet and confer is not subject to FMC Section 2-1916.**

F. LEAVES

1. Annual Leave:

Effective July 1, 2000, the following annual leave program was implemented for all employees occupying classes in this Unit who are employed in permanent positions at fixed monthly or yearly salaries. The annual leave program consists of combining previously existing vacation and sick leave (reduced from eight (8) hours per month to five and five-tenths (5 5/10) hours per month) accumulation rates, while simultaneously freezing existing unused sick leave balances.

- a. Annual Leave Accrual - Vacation leave and sick leave will no longer be accumulated as provided in the FMC, but as detailed below. Except for Administrative Order 2-20 (Sick Leave Policy) and any other exceptions noted herein, all other provisions of the FMC, city administrative orders, policies, procedures, rules and regulations concerning leave administration will continue to apply.

- (1) Less than Ten Years - For such employees who have been continuously employed by the City for less than ten (10) years, the annual leave accrual rate will be 15.5 hours for each completed calendar month of employment. In the event the City agrees to a higher annual leave accrual rate for members of recognized labor organizations who participate in the City of Fresno Employees Retirement System, the City agrees that it will increase the annual leave accrual rate to the same level for employees represented by the Association.
- (2) More than Ten Years - For such employees who have been continuously employed by the City for ten (10) years or more, the annual leave accrual rate will be 18.83 hours for each completed

calendar month of employment. In the event the City agrees to a higher annual leave accrual rate for members of recognized labor organizations who participate in the City of Fresno Employees Retirement System, the City agrees that it will increase the annual leave accrual rate to the same level for employees represented by the Association.

- (3) Annual Leave Accumulation Limit - For such employees who have been continuously employed by the City for less than ten (10) years or ten (10) years or more, the accumulation of unused annual leave will not exceed eight hundred (800) hours. No extension to the annual leave accumulation limit will be allowed.
- (4) Use of Annual Leave - Annual leave requests will be administered in accordance with existing FMC provisions, city administrative orders, policies, procedures, rules and regulations.
- (5) Unused Annual Leave Pay Out - Upon separation from City service, an employee will be compensated for all unused annual leave balances at his or her applicable base rate of pay. Compensation received under this provision will not be considered pensionable for retirement purposes. The FMC was modified to include a definition of annual leave, and exclude accrued annual leave pay outs from pensionability under the City of Fresno Employees Retirement System. Both parties agreed to support and recommend this action to the Retirement Board and City Council.
- (6) Transfer - An employee transferring to a position represented by a different bargaining group, which is not covered by annual leave, may either cash out his or her unused annual leave balance at his or her applicable base rate of pay, or have the unused annual leave balance converted to a non-accruing annual leave balance of hours. The conversion is obtained by multiplying unused annual leave hours by the applicable Association class' base rate of pay (convert to an hourly figure), dividing the product by the applicable non-Association class' base rate of pay (convert to an hourly figure), and placing the resulting balance for leave usage as requested and designated by the employee. (Conversion example: 100 [unused annual leave hours] x \$15.00 [CFMEA class monthly base rate converted to hourly] = \$1,500.00 [product] ÷ \$20.00 [non-CFMEA

class monthly base rate converted to hourly] = 75 [converted hours to be placed in non-accruing annual leave balance account].) Upon separation from City service, the employee who transferred to a position outside the Association will be compensated for all unused annual leave hours at his or her applicable base rate of pay. Compensation received under this provision will not be considered pensionable for retirement purposes.

- b. Vacation Leave Balances Unused - Effective July 1, 2000 all employees occupying classes in this Unit who are employed in permanent positions at fixed monthly or yearly salaries, had their unused vacation leave balances transferred into their annual leave account.
- c. Sick Leave Balances Unused - Effective July 1, 2000 all employees occupying classes in this Unit who are employed in permanent positions at fixed monthly or yearly salaries, had their unused sick leave balances frozen.
 - (1) Use of Sick Leave - Except for usage permitted by State Labor Code Section 233 of Chapter 164 (Sick Leave Use to Care for Family Members), frozen sick leave balances may only be used by the employee for a medically verified extended illness over * * **twenty-four (24)** consecutive work hours. Employees will use annual leave to cover the first * * * **twenty-four (24)** consecutive work hours for each medically verified extended illness situation prior to using frozen sick leave balances.
 - (2) Unused Sick Leave Pay Out - At service retirement, employees will be compensated for only those unused, frozen, sick leave balances in excess of one thousand two hundred (1,200) hours at two dollars (\$2.00) per hour. Compensation received under this provision will not be considered pensionable for retirement purposes.
- d. Pensionability - Compensation payable under the annual leave program will not be considered pensionable for retirement purposes. The Fresno Municipal Code has been modified to include a definition of annual leave, and exclude accrued annual leave from pensionability under the City of Fresno Employees Retirement System. Both parties agreed to support and recommend this action to the Retirement Board and City Council.

2. Holiday Leave:

- a. Except as may be modified in this Section, Holidays shall be governed by FMC Section 2-1513.

Effective January 1, 1989 the following are the holidays recognized by the City:

January 1

The third Monday in January

The third Monday in February

The last Monday in May

July 4

The first Monday in September

November 11

Thanksgiving Day in November

The Friday after Thanksgiving Day in November

December 25

Employee's Birthday

Two Personal Business Days (8 hours credited to holiday balance on July 1 and 8 hours credited on January 1)

Any day or part of a day declared by the Council, by Ordinance or Resolution, to be a holiday.

If January 1, July 4, November 11, or December 25 falls upon a Sunday, then the following Monday will be observed as the holiday in lieu of Sunday.

- b. Employees who are scheduled to and do work a regular shift on a holiday shall be credited with eight (8) hours of holiday leave on the first day of the pay period following the date of such work.
- c. When a holiday falls on a Saturday, or on an employee's regularly scheduled day off, an employee shall be credited with eight (8) hours of holiday leave on the first day of the following month.
- d. If an employee is required to and does work on the employee's birthday, or the employee's birthday falls on a holiday or any regularly scheduled day off, the employee shall be credited with eight (8) hours of holiday leave on the first day of the pay period following the birthday.
- e. Employees may request payment and be compensated for up to 48 hours or 25% of their holiday leave balance, whichever is greater, each

fiscal year during the term of this MOU.

3. Administrative Leave:

Exempt employees shall receive forty-eight (48) hours of administrative leave each fiscal year, and may request payment and be compensated for up to 48 hours of their Administrative Leave balance during the fiscal year in which it is credited. Upon employment by the City, new employees appointed to exempt positions shall be credited with four hours of administrative leave for each full calendar month remaining in the fiscal year. Administrative leave not taken or compensated during the fiscal year in which it is credited shall not be added to the leave credited in the next fiscal year, nor carried over. Exempt employees shall be compensated for any administrative leave balance, not to exceed forty-eight hours, upon termination from City service.

In addition, the department director shall grant up to an additional thirty-two (32) hours administrative leave each fiscal year to exempt employees * * * **based on an annual job performance * * * evaluation, as outlined in Article VIII, Section B.** The determination by the department director to grant the additional * * * administrative leave shall be made * * * **at the time the annual performance evaluation is completed, and credited to the employee on * * * the anniversary date.** In determining * * * **the number of additional hours to be awarded,** the director shall also consider the employee's extended work hours and attendance.

- a. The additional administrative leave granted cannot be cashed in by employees.
- b. Employees not otherwise eligible for administrative leave who are provisionally appointed to permanent positions in classes eligible for administrative leave, and new employees, shall not be granted any part of this additional administrative leave.

G. WORKERS' COMPENSATION

- 1. An employee who suffers injury or illness in the course and scope of City employment shall receive eighty-five percent (85%) of full salary from the City, beginning on the fourth calendar day of such absence, unless hospitalized on the first day for at least 24 hours, or unless the absence exceeds fourteen (14) calendar days, in which case the employee shall receive the pay provided in this section from the first day. Except for the provision of full pay and its starting date, (as modified herein), the provisions of FMC 2-1515 shall apply. Employees on "light duty" as a result of an injury or illness suffered in the course

and scope of employment shall receive their regular salary during the period of "light duty" only.

2. Partial days of absence due to injury or illness in the line of duty, including the day of injury, shall be at full pay and shall not count towards the three (3) day exclusion period, however, this time shall be recorded as injury absence.
3. At the employee's option, in the event pay from the City is not provided during the first three (3) days of absence due to injury or illness in the line of duty, the employee may take sick leave, vacation or administrative leave for that period.
4. If the employee has used sick leave, vacation or administrative leave for the first three (3) days and it is later determined that pay is applicable from the first day, the leave time shall be restored to the employee and his or her pay adjusted accordingly. If the employee has been on leave without pay for the first three (3) days and it is later determined that pay is applicable from the first day, the employee shall be paid therefore.
5. If an employee is placed on sick leave, vacation or administrative leave pending determination as to whether the injury or illness is industrial, and the injury or illness is determined to be industrial, sick leave, vacation or administrative leave will be restored and the employee placed on injury leave as provided herein.
6. Retirement benefits shall not be reduced as a result of compensation at the eighty-five percent (85%) rate.
7. Taxes shall not be withheld on compensation at the eighty-five percent (85%) rates which are not taxable due to injury in the line of duty.

H. COURT TIME

Notwithstanding the provisions of FMC Section 2-1511, an employee in this Unit who receives a notice or subpoena requiring a court appearance during a pre-approved vacation, holiday or administrative leave shall be credited with vacation, holiday or administrative leave equivalent to the actual number of hours spent in court on such day(s).

I. WORK SCHEDULES

[§ deleted]

The City and employees of the Association may mutually agree to alternative work

schedules for individual employees. Both the City and the employee retain the right to withdraw the mutual agreement and return to the regular schedule established by the employee's division.

J. USE OF PERSONAL VEHICLES

Employees may be required, at the discretion of the City, to use their personal vehicles for City business. Employees required to use their personal vehicles on City business, other than traveling to and from work, shall be reimbursed in accordance with Administrative Order 2-2, Transportation Allowance and Mileage Reimbursement Policy. Employees may be required, at the discretion of the City, to take a City vehicle home to facilitate efficient response to after-hours emergencies or City business, pursuant to Administrative Order 8-8, City-Owned/Leased Vehicles-Acquisition and Usage Policy.

ARTICLE IX

HEADINGS, SAVING CLAUSE, AND FULL UNDERSTANDING

A. Headings:

MOU article, provision, and paragraph headings (includes exhibits, addenda, attachments, agreements, and side letters) contained herein are solely for the purpose of convenience only and shall not effect the construction or interpretation of any of the language of this MOU.

B. Saving Clause:

In the event any article, section, or portion of this MOU should be held invalid and unenforceable in any court of competent jurisdiction, such decision shall apply only to the specific article, section, or portion thereof specifically specified in the Court's decision, and upon issuance of such a decision, the City and the Association agree to immediately meet and confer upon a substitute for the invalidated article, section, or portion thereof.

C. Full Understanding:

It is intended that this MOU sets forth the full and entire understanding of the parties, and any previous understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded and terminated in their entirety. Side letter agreements and agreements attached to this MOU shall continue in force subject to the terms contained therein, or in the absence of specified terms the side letters and agreements shall terminate upon the expiration of this MOU. Any side letter agreements and agreements entered into during the term of the MOU shall continue in force subject to the terms and conditions set forth in each side letter. Further, neither party shall be bound by any promise or assurance that is not explicitly covered in the MOU, in a side letter of agreement, or agreement signed by both parties.

ARTICLE X

TERMINATION

The provisions of this MOU shall be in full force and effect from **July 1, 2001**, to **June 30, 2004**, subject to the sections (A., B., and C.) below.

- A. This MOU shall become effective only after ratification by the members of the Association, followed by City Council approval and the expiration of the waiting period for the Mayor's action provided in Charter sections 605 and 609, and shall remain in full force and effect through June 30, **2004**.
- B. During the term of this MOU, should either party desire to modify its terms or to meet and confer as to matters within the scope of representation not addressed in this MOU, the party requesting any change shall request in writing to meet and confer on the item(s), which item(s) shall be specified in writing.
- C. During the term of this MOU, either party may refuse any request by the other to meet and confer without explanation if the item is directly considered and specifically addressed herein, or if the specific item was included in a written proposal from the party making the request during the meet and confer process which led to this MOU. It is further agreed, however, that this section shall not prohibit the City from requesting to meet and confer on changes to federal, state or City statutes, and City administrative policies referred to or cited in this MOU, in which case the request to meet and confer shall not be refused.

IN WITNESS WHEREOF, the parties hereto have set their hands on this _____th day of _____, 2001.

**FOR THE CITY OF FRESNO
MANAGEMENT EMPLOYEES
ASSOCIATION:**

CLAY DURBIN
President, CFMEA

FOR THE CITY OF FRESNO:

JORGE C. AGUIÑIGA
Labor Relations Manager

CARLA BYERS
Secretary, CFMEA

LORI M. NAJERA
Senior Human Resources Analyst

E. DENNIS MAJOR
Treasurer, CFMEA

ROBERT CAVAZOS
Transit Maintenance Manager

**APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE**

BY: _____
Deputy City Attorney

EXHIBIT I Management Confidential - Unit 14 Salaries Effective July 1, 2001					
CLASS TITLE	A	B	C	D	E
Airports Development Manager		2500	-	7700	
Airports Operations Manager		2500	-	7700	
Airports Planning Manager		2500	-	7700	
Airports Projects Manager		2500	-	7700	
Assistant City Clerk		2500	-	7700	
Assistant Information Systems Manager		2500	-	7700	
Building & Safety Services Manager		2500	-	7700	
Chandler Airport Superintendent		2500	-	7700	
City Construction Engineer		2500	-	7700	
City Design Engineer		2500	-	7700	
City Traffic Engineer		2500	-	7700	
Community Sanitation Manager		2500	-	7700	
Convention Center Manager		2500	-	7700	
Deputy Recreation Manager		2500	-	7700	
Emergency Services Communications Manager		2500	-	7700	
Facilities Manager		2500	-	7700	
Fleet Manager		2500	-	7700	
Housing & Neighborhood Revitalization Manager		2500	-	7700	
Information Services Manager		2500	-	7700	
Law Office Manager		2500	-	7700	
Management Analyst III		2500	-	7700	
Noise Abatement Manager		2500	-	7700	

EXHIBIT I Management Confidential - Unit 14 Salaries Effective July 1, 2001					
CLASS TITLE	A	B	C	D	E
Parks Manager		2500	-	7700	
Planning Manager		2500	-	7700	
Police Technical Services Manager		2500	-	7700	
Purchasing Manager		2500	-	7700	
Records Manager		2500	-	7700	
Recreation Manager		2500	-	7700	
Revenue Manager		2500	-	7700	
Sewer Maintenance Manager		2500	-	7700	
Solid Waste Manager		2500	-	7700	
Street Maintenance Manager		2500	-	7700	
Training Officer		2500	-	7700	
Transit Maintenance Manager		2500	-	7700	
Transit Operations Manager		2500	-	7700	
Wastewater Manager		2500	-	7700	
Water System Manager		2500	-	7700	

ATTACHMENT A



Employee Rated:

Title:

Current Position Anniversary Date:

Department:

CITY OF FRESNO PERFORMANCE EVALUATION FORM

Rating Section

Trait	*Unsatisfactory / Needs Improvement	Average	Above Average	Superior	Outstanding
Use of Resources Uses available resources effectively including staff, other City and non-City personnel, material and information on hand or available. Obtains maximum results from available resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leadership Directs, motivates, corrects, trains, and disciplines effectively. Inspires confidence through job knowledge and ability to motivate. Uses positive methods to achieve results through subordinates.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quality of Work Produces work that is comprehensive in scope, timely, and complete in detail. Produces work that is free from mistake or error.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Quantity of Work Produces a quantity of work appropriate to the job.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Working With Others Works well with subordinates, peers, supervisors, and the public; establishes an effective working relationship with representatives of other agencies and organizations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Initiative Is a self-starter and is not self-limiting. Acts independently without specific instructions; does not always require specific instructions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judgment Understands and, to the extent possible, can determine the consequences of particular actions; ability to select the alternative leading to the desired consequence; good sense	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Set/define/enumerate goals for improvement.

Rater's Section

**



Employee Rated:

Title:

Current Position Anniversary Date:

Department:

Disregarding the importance of the job in your department, this person's overall rating is:

--	--	--	--	--

Date _____ Rater _____ Title _____

****Requires justification to City Manager or designee under comments section.**

ATTACHMENT A



Employee Rated:

Title:

Current Position Anniversary Date:

Department:

Employee Section

I understand that my signature indicates that I have had the opportunity to review the completed form and the Department Director, or a designated representative, has discussed my appraisal with me. If applicable, I also understand the goals and objectives, as outlined in my evaluation; and I understand that, in part, my next rating on my evaluation will be contingent on meeting or making progress toward these goals and objectives.

Date _____ Signature _____

Department Director Review Section

This employee is prepared for:

(Circle choice)

Unprepared

Very
Prepared

More complex/challenging assignments

1 2 3 4 5

Promotion

1 2 3 4 5

Date _____ Signature _____

Comments Section

CFMEA PERFORMANCE EVALUATIONS

UNSATISFACTORY/NEEDS IMPROVEMENT

Needs to improve performance to demonstrate consistent satisfactory performance or is an unsatisfactory performer that will be given short notice to dramatically improve or face termination. A person with three or more “needs improvement” and/or “unsatisfactory” ratings would be in this category. The number and severity ratings would be used in determining the level of “notice.”

AVERAGE

Fulfills the performance requirements/expectations of the position. This person may have one or two correctable “needs improvement” ratings on his/her evaluation that would be reassessed after six months.

ABOVE AVERAGE

Usually exceeds job standards in fulfilling performance requirements with above average performance.

SUPERIOR

Consistently exceeds job standards and often demonstrates excellence in fulfilling performance requirements.

OUTSTANDING

Always exceeds job standards and consistently demonstrates excellence and outstanding ability in fulfilling performance requirements.